

JURISDICTION AND VENUE

4. Jurisdiction is based upon the diversity of citizenship of the parties pursuant to 28 U.S.C. § 1332, and the amount in controversy, exclusive of interests and costs, exceeds the sum of \$75,000.

5. Venue is properly laid in this judicial district.

GENERAL ALLEGATIONS

6. At all times material hereto, Richard E. Deforno, DMD P.C. retained and contracted with the defendants to provide cleaning services at its medical office located at 3105 Zin Road, Thorndale, Pennsylvania.

7. On or about March 14, 2007, employees of the defendants entered the Deforno medical office and through its negligence, recklessness and/or carelessness caused damage and destruction to real property as well as damage to the personal property of the medical office.

8. Pursuant to the policy of insurance between Fireman's Fund and Richard E. Deforno, DMD P.C., Fireman's Fund paid its insured in excess of \$143,000 for the property damage sustained as a result of the actions of the defendants and its employees.

9. As a result of the foregoing payments, and pursuant to the applicable policy of insurance, and by operation of law and equity, Fireman's Fund is subrogated to Richard E. Deforno, DMD, P.C. and is entitled to assert any and all claims on its behalf against the defendants as a result of this incident.

COUNT I
NEGLIGENCE

10. Plaintiff incorporates by reference each and every allegation set forth above as if recited herein at length.

11. The property damage was caused by the negligence and carelessness of defendants and its servants and/or employees in the following ways:

- a. failing to shut off water so as to prevent damage to real and personal property;
- b. failing to properly protect the office that it was cleaning so as to protect it from harm;
- c. causing water damage to occur at the property;
- d. otherwise acting negligently and failing to use due care as will be further disclosed during the discovery process.

WHEREFORE, plaintiff, Fireman's Fund Insurance Company, demands judgments in its favor against the defendants in an amount in excess of \$143,000, along with interest and the cost of this action.

COUNT II
BREACH OF CONTRACT

12. Plaintiff incorporates by reference each and every allegation set forth above as if recited herein at length.


13. Prior to March 14, 2007, Richard E. Deforno, DMD, P.C. contracted with the defendants for cleaning services at the subject property. Implicit to its agreement, defendants warranted, promised and guaranteed that its services would be provided in a professional manner so as to prevent harm and damage to the real and personal property.

14. Defendants by causing significant property damage breached and violated the terms and conditions of its agreement and contract, including its implied guarantees and warranties.

15. The breach of the defendants of its contractual obligations, guarantees and warranties caused damage to the real and personal property of Richard E. Deforno, DMD, P.C.

WHEREFORE, plaintiff, Fireman's Fund Insurance Company, demands judgments in its favor against the defendants in an amount in excess of \$143,000, along with interest and the cost of this action.

COZEN O'CONNOR

By: 
David W. Smith (77551)
1900 Market Street
Philadelphia, PA 19103
Tele: 215-665-2103
Fax: 877-526-3070
Email: dwsmith@cozen.com

PHILADELPHIA\3378350\1 207644.000